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BEFORE THE

**FEDERAL COMMUNICATIONS COMMISSION**

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

WASHINGTON, D.C. 20554

In the Matter of

PR Docket No. 93-38

**AMENDMENT OF THE COMMISSION'S  
RULES TO PERMIT PRIVATE CARRIER  
PAGING LICENSEES TO PROVIDE  
SERVICE TO INDIVIDUALS**

To: The Commission

**COMMENTS OF PACTEL PAGING**

PacTel Paging ("PacTel"), by its attorneys, hereby submits its Comments in support of the Commission's Notice of Proposed Rulemaking amending the Commission's Rules to permit private carrier paging licensees to provide service to individuals ("NPRM").

1. PacTel is a licensee under Part 90 of the Commission's Rules. PacTel has established several wide area 929 MHz private carrier paging ("PCP") systems in California, Nevada, Arizona, Georgia, and Florida. PacTel serves in excess of 100,000 paging units over its various PCP systems, making it one of the largest providers of PCP service in the nation.

2. PacTel completely supports the Commission's NPRM. As PacTel pointed out in its Comments to the Petition for Rulemaking

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filed by the Association for Private Carrier Paging Section of the National Association of Business and Educational Radio, Inc. ("APCP"),<sup>1/</sup> increasing numbers of paging subscribers are being sold paging equipment and service via indirect distribution channels, such as agents, resellers, and retail stores (e.g., wholesale discount clubs, electronic stores, and the like).<sup>2/</sup> As the Commission points out in paragraph 10 of the NPRM, verification that these indirect channels are selling only to qualified users is extremely difficult, if not impossible.<sup>3/</sup> The removal of the outdated restriction against selling to individuals will allow PCP operators to compete fully in the indirect distribution channels which are a major driver in the growth of the paging business.<sup>4/</sup>

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<sup>1/</sup> Petition for Rulemaking of the National Association of Business and Educational Radio, Inc., RM-8107 (June 4, 1992).

<sup>2/</sup> By some estimates, as much as one-third to one-half of new subscribers are being added to paging services, as a whole, through indirect channels. This has contributed substantially to the phenomenal growth of the industry over the last two years. Indeed, with falling equipment prices, paging is quickly becoming a consumer product. See, Washington Post, "BEEP, For the Gadget-Conscious Household", July 16, 1992 (Final Edition), at T9.

<sup>3/</sup> PCP carriers are given a Hobson's choice. Either they must forego using these channels of distribution or run the risk of violating the Commission's Rules. This does not serve the public interest. Most conscientious PCP carriers forego these indirect channels of distribution.

<sup>4/</sup> In fact, without removal of this restriction, PCP operators might begin losing ground in terms of growth because they would be restricted to selling only through direct channels which are more easily policed.

3. The Commission is also correct in finding that the current restrictions on provision of service to individuals impedes competition.<sup>5/</sup> In almost all instances, the subscriber is unaware of the differences between common carrier service and private carrier services.<sup>6/</sup> PCP services can offer an attractive alternative to common carrier services especially in markets where there is limited entry possible because of shortages of paging frequencies, such as the Northeast United States, California, and Florida. If PCP services are not restricted, PacTel believes that they will bring additional competition, lower prices and enhanced service offerings to the market.<sup>7/</sup>

4. PacTel believes, however, that the suggested rule changes to Section 90.494(a) do not go far enough. The current proposed rule changes would only permit PCP licensees who hold Pool 2 frequencies to serve individuals. The reasoning and public interest supporting removal of this restriction for Pool 2 frequencies also applies to Pool 1 frequencies. Furthermore,

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<sup>5/</sup> See NPRM at 9.

<sup>6/</sup> The Commission itself has recognized this fact in other contexts. For instance, last year in testimony before Congress, Common Carrier Chief Cheryl Tritt explained that "carriers of both kinds [private and common carrier] compete increasingly to serve the same customers." Mobile Communications: Hearing Before the Subcommittee on

pursuant to Section 90.494(g), NABER is coordinating PCP applicants onto Pool 1 frequencies when a suitable Pool 2 frequency is unavailable. Therefore, the Commission should add the following at the end of its revised Section 90.494(a):

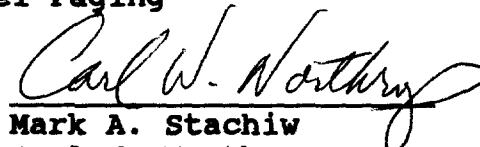
If a frequency in Pool 1 is licensed to a PCP licensee pursuant to Section 90.494(g), such PCP licensee may provide one-way paging communications to individuals, persons eligible for licensing under subpart B, C, D, or E of this part, and representatives of Federal Government agencies.<sup>1/</sup>

5. The foregoing premises having been duly considered, PacTel respectfully requests that the Commission proceed with the elimination of the prohibition against serving individuals on private carrier paging channels.

Respectfully submitted,

PacTel Paging

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<sup>1/</sup> The Commission has proposed that PCP licensees in the 929-930 MHz band could earn exclusivity under certain circumstances. See, Amendment of the Commission's Rules to Provide Channel Exclusivity to Qualified Private Paging Systems at 929-930 MHz, PR 93-35 (Released March 31, 1993). When the Commission adopts a final order in that proceeding the language contained in the proposed new Section 90.494(c) in that proceeding will need to be revised.